



DECISION NOTICE & FINDING OF NO SIGNIFICANT IMPACT

GOAT MOUNTAIN HARDROCK MINERAL PROSPECTING PERMITS

U.S.D.A. FOREST SERVICE, GIFFORD PINCHOT NATIONAL FOREST

COWLITZ VALLEY RANGER DISTRICT

SKAMANIA COUNTY, WA

T10N, R6E, Sections 7, 8, 9, 16, 17, 18, and 19, Willamette Meridian

INTRODUCTION

This Decision Notice (DN) and Finding of No Significant Impact (FONSI) documents my consent to the USDI-Bureau of Land Management (hereinafter referred to as BLM) for issuing two Federal Hardrock Mineral Prospecting Permits, and specifies certain required conditions¹ for use and protection of the National Forest System (NFS) lands involved (DN, Attachment 1). The permit areas encompass approximately 900 acres on the Cowlitz Valley Ranger District of the Gifford Pinchot National Forest (GPNF) in the west-central portion of Washington State included in Prospecting Permit Applications serialized by BLM as # WAOR-066628 and #WAOR-066973. The lands involved are further described in Table 2.1-1 in the Environmental Assessment DOI-BLM-OR-934-2012-0001 (EA). I have selected Alternative 3, the Alternative Based on Scoping Comments, because it provides Forest Service consent and specifies certain conditions which best address the balance between resource use and resource protection, while also responding to public issues.

The BLM prepared an Environmental Assessment (EA) in response to two hardrock prospecting permit applications submitted by Ascot USA, Inc. The Forest Service participated in the EA as a cooperating agency. The permit areas are within portions of sections 7, 8, 9, 16, 17, 18, and 19 of Township 10 North, Range 6 East, Willamette Meridian, Skamania County, Washington (DN, Attachment 2). The lands are located on and adjacent to the south facing slope of Goat Mountain, approximately 12 miles northeast of Mount St. Helens. These lands are adjacent to and extend northeast from the boundary of the Mount St. Helens National Volcanic Monument (MSHNVM). No land within the permit areas lies within MSHNVM. The area receives recreational users, horseback riding, campers, and hunting.

The Secretary of Interior is responsible for managing the Federal mineral estate and the authority to grant prospecting permits lies with the BLM. The NFS lands involved were acquired under the authority of the Weeks Act of 1911 for the purposes of regulating the flow of navigable streams or for the production of timber². The Mineral Resources on Weeks Law Lands, 1917 established that the Secretary of Agriculture could authorize the prospecting, development, and

¹ Consent decision with certain "Specified Conditions" (stipulations) listed in DN, Attachment 1.

² P.L. 61-435, as amended

utilization of mineral resources of the lands acquired under the Weeks Law of 1911. These functions were transferred to the Secretary of Interior in the Reorganization Plan No. 3 of 1946³. Where hardrock mineral prospecting involves acquired NFS lands, the applicable regulatory framework sets out that the BLM can only issue prospecting permits with the consent of the surface managing agency. Consent is contingent upon a determination that the activities will not interfere with the primary purposes for which the lands were acquired. Under the Weeks Law of 1911, lands are acquired as may be necessary to regulate the flow of navigable streams or for the production of timber. Both agencies have worked cooperatively to evaluate the permit applications.

BACKGROUND

A number of laws guide the overall Forest Service mission to, “sustain the health, diversity, and productivity of the Nation’s forests and grasslands to meet the needs of present and future generations.” These laws include the Multiple-Use-Sustained-Yield Act (1960), which requires NFS lands to be administered considering the values of various resources in management decisions and provides that nothing in the Act affects the use or administration of mineral resources on NFS lands; the National Forest Management Act (1976), which requires the Forest Service to keep a detailed inventory of lands and resources, and to consider the physical sciences in interdisciplinary planning for use of NFS resources; and the Mining and Minerals Policy Act (1970), stating that it is the continuing policy of the Federal Government to encourage development of economically sound and stable domestic mining and minerals industries and the orderly development of domestic mineral resources. Consistent with these and other statutes, Forest Service Manual 2802 establishes an agency objective to, “*Ensure that exploration, development, and production of mineral and energy resources are conducted in an environmentally sound manner and that these activities are integrated with the planning and management of other National Forest resources.*”

The Gifford Pinchot National Forest Land and Resource Management Plan (“Forest Plan,” 1990) as amended by the “Northwest Forest Plan” (NWFP, 1994) provides long-term policy for management of Forest Service and BLM administered lands within the range of the northern spotted owl. The Forest Plan prescribes natural resource management activities and implementation regulations for the GPNF and embodies provisions of the National Forest Management Act, the statutes mentioned above, and others. The Forest Plan designated the lands associated with the permit applications as *general forest*, with an emphasis on timber production. The NWFP amendment allocated most of these lands as *matrix lands*, which are managed for multiple uses including timber harvest. Areas along the Green River and other streams, water bodies, wetlands, and unstable areas, were designated as *riparian reserve* by the NWFP. *Standards and Guidelines* in the NWFP are required to protect environmental quality for management activities, and these differ based on the land allocation.

The Goat Mountain area has historically been dominated by logging, recreation, mineral prospecting, and limited mineral development. Mineralization of interest was discovered in the

³ 43CFR3501.1(b)

late 1800s, with mining claims established in 1901 and 1904. Sporadic development has occurred by various surface and subsurface workings. The area was the subject of limited exploration programs by Duval Corporation in the late 1960's and the early 1970's. Field work halted in 1980 following the eruption of Mount St. Helens. Recent increases in copper and gold prices and improvements in technology have spurred renewed interest in exploring for hardrock minerals.

There has been considerable concern and interest around the possibility of hardrock mineral development in northwest Skamania County. My decision facilitates *only* prospecting (exploration) activities within the permit areas. It is *not* a minerals development (mining) project. BLM decisions to issue prospecting permits based on Forest Service consent confers exclusive rights to the permit holder to *prospect on and explore* the specific lands within a permit area to determine the existence of a valuable mineral deposit⁴. If a valuable mineral deposit is located, a permit holder could then apply for a non-competitive lease to develop the valuable minerals discovered under the prospecting permit. However, any subsequent application for a lease would be subject to a separate National Environmental Policy Act (NEPA) analysis and public comment process, to be evaluated on its own merits, and would require a separate decision in which the Forest Service would exercise its consent to leasing authority (DN, Attachment 1, Condition 2).

DECISION

Based upon my review of the EA for the Goat Mountain Hardrock Mineral Prospecting Permit Applications and supporting project record, I have decided to consent, with certain required conditions, to BLM issuing the hardrock mineral prospecting permits for NFS lands described in Applications # WAOR-066628 and #WAOR-066973, within the Gifford Pinchot National Forest. I am consenting to permit issuance as described in Alternative 3, which includes certain conditions that are within the legal and regulatory purview of the Forest Service as the surface managing agency (DN, Attachment 1). My decision specifies conditions necessary for the use and protection of the 900 acres of NFS lands involved in the permit applications, including conditions related to and consistent with the Forest Plan and NWFP (Condition 4), the Tumwater Inventoried Roadless Area (Condition 5), the integrity of the Green River (Condition 6), the range of the northern spotted owl (Condition 7) and protection of the primary purposes for which the lands were acquired. These required conditions, along with analyses documented in the EA and the project record, support the Forest Service finding that prospecting permits and associated activities will not interfere with the primary purpose for which the lands were acquired under authority of the Weeks Act of 1911 (see *Findings Required by Other Laws and Regulations* in this document).

Following this FS consent decision, the BLM must decide whether to issue the prospecting permits and also whether to approve the exploration plan and associated activities within a smaller project area boundary. Activities contemplated in an exploration plan include directionally drilling approximately 63 small-diameter (2 to 3 inches) boreholes from 23 drill

⁴ BLM must determine the existence of a "valuable deposit" based on data gathered from exploration activities authorized under a prospecting permit (43CFR3507.18).

sites, affecting about 0.23 acres, and the use of portable equipment to recover rock core samples. This use would take place on or immediately adjacent to existing roads and drill sites, some of which are currently decommissioned and will require temporary reactivation. The existing drill sites were previously established by a company in the early 1980s.

DECISION RATIONALE

In making the Forest Service consent decision, I have considered how the alternatives analyzed in detail would meet the purpose and need of the Federal Hardrock Mineral Prospecting Permits, as well as the environmental effects of each alternative. Both Alternative 2 and Alternative 3 provide for consent of the Forest Service, but Alternative 3 also identifies operational conditions that I recommend to BLM to address issues related to the proposed activities described in the Exploration/Operations Plan of October 5, 2011. When compared to other alternatives, Alternative 3 will help accomplish Forest Plan direction for minerals, provides the best balance between resource use and resource protection, and best responds to issues raised by the public, state, tribal and local government, and agencies. The Goat Mountain Hardrock Prospecting Permit Applications EA documents the environmental analysis and conclusions upon which this decision is based. I have carefully considered these Alternatives in making my decision.

The Forest Service and the BLM have identified the need to consider issuing hardrock mineral prospecting permits with stipulations for protecting surface resources on the Gifford Pinchot National Forest for the purposes of exploring for valuable deposits of mineral resources. My decision is consistent with this purpose as it will allow for the exploration for various mineral resources in an environmentally sound manner. This decision is consistent with the federal government's overall policy to foster and encourage private enterprise in the development of economically sound and stable mining and mineral industries, and to help assure the orderly and economic development of mineral resources to satisfy industrial, security and environmental needs.⁵

The selected alternative and this decision responds to the overall guidance of the Forest Plan to encourage and facilitate the orderly exploration, development, and production of mineral and energy resources within the National Forest System in order to maintain a viable, healthy minerals industry, and to promote self-sufficiency in those mineral and energy resources necessary for economic growth and the national defense (Forest Plan, p. IV-4).

The EA describes and evaluates Alternative 3, which provides for consent; along with certain specified conditions the Forest Service has determined are suitable and necessary to protect NFS lands and to prevent interference with the primary purposes for which the lands were acquired. The EA and project record also document other values and uses on these National Forest System lands that were taken into consideration during the analysis. The specified conditions required as a condition of Forest Service consent are necessary to protect and comply with requirements for the Tumwater Inventoried Roadless Area; the eligibility of the Green River for potential inclusion in the wild and scenic river system; the range of the northern spotted owl; the Forest

⁵ Mining and Minerals Policy Act of 1970

Plan; and other applicable regulations (DN, Attachment 1). All practical means to avoid and/or minimize environmental impacts that might occur from implementing the project have been incorporated in the project design and stipulations. The Agencies took a hard look at the comments received on the EA, especially regarding wildlife and groundwater. A comment matrix was developed as part of the project record and I evaluated this information, along with clarifications made to the EA before making my decision.

Making a decision on resource use is a complex process and results in tradeoffs between resource effects and resource benefits. I am aware of the interactions between the various resources, including the direct, indirect, and cumulative effects of the proposed action on different resources, and have taken these into consideration (EA, Chapter 3). Assuming BLM issues the prospecting permits after receiving consent from the Forest Service, the subsequent effects of this decision would be limited in nature and occur only for a short duration. This is because prospecting permits are valid for an initial two year term, with opportunity to extend them for four years. In addition, conditions identified limit some activities and uses to protect certain resources within the permit areas. If BLM issues the prospecting permits, the Forest Service required conditions would become part of the permits, as well as the additional BLM required mitigation described in the EA along with the standard terms of the permits.⁶

Most of the lands are in the blast zone from the 1980 eruption of Mount St. Helens, and were salvage logged and reforested in the 1980s. The total disturbance area for drill sites contemplated in the exploration plan would be less than ¼ acre. Access to these sites would require the temporary reactivation of approximately 1.7 miles of partially closed roads. This work would occur on or immediately adjacent to existing roads and former drill sites. In accordance with the regulatory requirements, all disturbances would be fully reclaimed. BLM would require design features and necessary environmental protection measures (EA, Sections 2.1.3.3; 2.1.4).

I have also considered the issues and have taken into account the competing interests and values of the public. I have considered the diverse views expressed during the public scoping period and during the public comment period. Clarifications were made to the EA, based on public comments regarding wildlife and groundwater use and protection. Additional mitigation measures addressing drilling operations, water sourcing and drill hole abandonment were identified and incorporated into the EA. There is a broad range of opinion on how the Forest should be managed. My decision facilitates *only* prospecting (e.g. exploration) activities within the permit area. It is *not* a minerals development (e.g. mining) project. In reviewing the comments received on the EA prior to making this decision, I have taken a hard look at several specific issues regarding this project including the purposes for which the NFS lands were acquired; impacts to wildlife; impacts and mitigation to protect surface and groundwater and the flow of navigable streams; recreational users; timber production; transportation; and local jobs.

I recognize the public concern about effects to the Tumwater Inventoried Roadless Area (IRA). Portions of the IRA overlap with both of the prospecting permit areas (DN, Attachment 2). My consent decision includes the *Standard Stipulation for Lands of the NFS Under the Jurisdiction of the Department of Agriculture* (DN, Attachment 1, Condition 3) as required by the Forest Service Manual (FSM 2822.42). This requires a prospecting permittee to comply with all rules

⁶ 43CFR3505.55

and regulations of the Secretary of Agriculture. The BLM prospecting permit form contains similar language as a standard term of the permit. My decision also includes a very specific condition which would require the permittee to comply with 36 CFR 294, Special Areas: Roadless Area Conservation; Final Rule. These Forest Service regulations implement the 2001 Roadless Area Conservation Rule, and prohibit road construction, reconstruction and timber harvest in IRAs (DN, Attachment 1, Condition 5).

I am also aware of public concerns about effects to the Green River, in particular its wild and scenic character. The Wild and Scenic Rivers Management Area Category in the GPNF Plan is described as “lands within ¼ mile of designated rivers within the forest boundary appearing to be both eligible and suitable for addition to the National Wild and Scenic Rivers System. Also included are those eligible river corridors for which suitability has not yet been determined,” (Forest Plan, p. IV-108). The objective of this management area is to protect the “outstandingly remarkable values” including scenery, recreation, geological and historical (mining), as well as the visual quality objective of partial retention, and recreation opportunity spectrum objective of roaded natural areas. In order to meet these objectives, Standards and Guidelines for Minerals and Geology activities within designated and potential wild and scenic rivers require that “approved plans will include reasonable mitigation and reclamation measures to minimize surface disturbance, sedimentation and visual impairment,” (Forest Plan IV-111). To address the public concern, as well as ensure consistency with the Forest Plan, my decision includes a condition that requires specific operational designs for exploration activity that may be contemplated near the Green River (DN, Attachment 1, Condition 6).

I also recognize that there are concerns related to potential for future mining. The current actions before the federal agencies are related to prospecting permits that would facilitate only exploration activity. Following BLM’s regulatory process at 43 CFR 3500, the permittee would have to, among other conditions, demonstrate to BLM the discovery of a valuable mineral deposit in order to obtain a mineral lease which could then potentially lead to mineral development. To that end, the Forest Service as the surface managing agency has the responsibility to make a determination whether to consent to issuance of such a lease, if one is applied for. To clarify this point, my decision includes a stipulation that ensures the Forest Service’s ability to review and consent to a lease on its own merits, should one be applied for (DN, Attachment 1, Condition 2).

OTHER ALTERNATIVES CONSIDERED

Proposed Action (Alternative 2)

The Proposed Action assumed that the Forest Service would consent to the BLM issuing the prospecting permits with conditions for use and protection of NFS lands. Specified conditions of Forest Service consent under Alternative 2, along with recommended mitigation measures, were based in part on the applicant’s initial exploration plan. The applicant’s proposal identified using only on-site water for drilling, certain limited drill hole reclamation/abandonment procedures, and other factors that raised issues for the agencies and the public. Based on these concerns, Alternative 3 was developed. Alternative 2 was not selected because of concerns related to potential impacts to water and wildlife.

No Action Alternative (Alternative 1)

Under the No Action Alternative, the FS would not have consented to issuance of the prospecting permits, and consequently BLM would not issue them nor approve the initial exploration plan. As a result, no ground disturbing activities related to exploration or associated activities would occur. The No Action Alternative does not preclude future applications for mineral prospecting or leasing in the project area. I did not select this alternative because it does not meet the purpose and need for the action. It also does not meet the overall guidance of the Forest Plan to encourage and facilitate the orderly exploration, development, and production of mineral and energy resources within the National Forest System in order to maintain a viable, healthy minerals industry and to promote self-sufficiency in those mineral and energy resources necessary for economic growth and the national defense (Forest Plan, page IV-4).

Alternatives Considered but Eliminated from Detailed Analysis

The first alternative considered, but eliminated from further analysis, did provide for Forest Service consent, but presented operational issues related to the use of overland travel to avoid reactivation of existing decommissioned roads. This alternative was rejected during the analysis because it would be physically impossible to traverse most of the project area without constructing new roads due to the steepness of the terrain and/or density of the forest.

The second alternative considered, but eliminated, also provided for Forest Service consent, but included Ascot's initial Exploration Plan for completing the drilling program using 25 drill pads. Pads 8 and 9 were eliminated from the proposed action because their installation would cause too much disturbance, including a substantial amount of grading and tree removal to gain access to the drill sites, and road use by supporting equipment. Ascot concurred with the revised plan during the permit application process.

The third alternative considered, but eliminated from further study, provided for Forest Service consent. This alternative, however, would limit use of the existing Forest Service Road 2612 to its current condition, rather than allowing for road improvements and maintenance as needed. Such improvements and maintenance are proposed under the exploration plan to ensure the safety of project personnel and the traveling public. Additionally, this route is the primary access to the north-eastern portion of the Goat Mountain area, including associated recreation. This alternative was eliminated as it would be infeasible due to safety concerns and would limit access to the drill sites needed to carry out the proposed exploratory drilling.

PUBLIC INVOLVEMENT

Public input on this project was useful in identifying concerns and mitigations to reduce conflicts amongst various uses of NFS lands. Managing the natural resources of the Gifford Pinchot National Forest requires complex integration of resource considerations. I have considered the potential impacts to natural resources and the human environment within the permit applications areas in making my decision.

Initial Scoping

The purpose of the public scoping process was to determine the nature and range of issues raised by the public to be addressed in the EA, including alternatives. Public scoping involved notification of the public, other agencies, organizations, and local and state governments. Government to government consultation was conducted with the Cowlitz Indian Tribe. Scoping helped refine issues, obtain tribal and agency feedback on the preliminary issues, and to identify new issues and reasonable alternatives. Approximately 200 comments were received during the scoping period. In addition, three public meetings were held during February and March of 2012.

Because the proposed action considered is limited only to issuing prospecting permits for specific lands that would facilitate exploration activities, concerns raised by some members of the public related to mine development are outside the scope of this EA. Approximately one third of comments submitted during public scoping involved jobs and concerns for impacts to the environment, water quality, and recreation. About ninety per cent of these comments noted that the project would bring needed employment and improve economic conditions of the area, while ten per cent noted that the project would not improve the job market. Approximately ten percent of comments indicated concern that the project would negatively impact water quality, and about ten percent were concerned about impacts to recreation (EA, Appendix C). Other subjects that were mentioned in less than ten percent each of the comments included:

- Mineral activity will not interfere with the primary purpose for which the lands were acquired;
- Increased traffic as the result of trucking water to the site;
- Effects on compaction of soil;
- Bond requirements of the project proponent;
- Consistency with the Tumwater *Inventoried Roadless Area* (IRA);
- Consistency with the Forest Plan, as amended by the Northwest Forest Plan;
- Concern that exploration would result in a mine;
- Concern regarding Green River eligibility for Wild and Scenic River status.

Formal Public Comment Period

An EA was developed that analyzed alternative methods to address issues related to the exploration plan activities, while still meeting the purpose and need for the project and included stipulations to address other resource concerns. The BLM prepared the EA with the Forest Service participating as a cooperating agency. The Forest Service intended to accomplish two overall tasks:

- First, to evaluate whether consenting to the issuance of prospecting permits would interfere with the purpose for which the lands were acquired; and

- Second, to identify conditions and mitigations required or recommended to protect NFS lands.

The EA was released on June 29, 2012 for a 30-day official public comment period. This comment period was extended for another 15 days, ending on August 15, 2012. About 6000 comments were received, most similar to those received during earlier scoping. Additional comments included:

- Prospecting is not consistent with the primary purpose for the land acquisition
- The EA is not adequate to address impacts to ground water, recreation and wildlife
- Lands were acquired with LWCF funds which supports recreation and wildlife

Tribal Consultation

Project notification and request for consultation was prepared and sent to the Confederated Tribes and Bands of the Yakama Indian Nation, the Cowlitz Indian Tribe, the Nisqually Indian Tribe, and the Squaxin Island Tribe. Consultation was initiated and completed with the Cowlitz Indian Tribe. Formal government-to-government consultation meetings were held between Agency officials and the Tribal Chairman, Tribal Historic Preservation Officer, and the staff of the Cowlitz Indian Tribe on March 30, 2012, May 30, 2012, and August 28, 2012. They were then briefed on the EA prior to release of the revised assessment following close of the formal comment period.

FINDING OF NO SIGNIFICANT IMPACT

Based on the context and analysis of the impacts in the EA, I have determined that Alternative 3, the Alternative Based on Scoping Comments, is not a major Federal action that would significantly affect the quality of the human environment, individually or cumulatively with other actions in the general area. In doing so, I considered the following criteria, suggested by CEQ (40 CFR 1508.27(b)), for evaluating the intensity or severity of the impact of the Proposed Goat Mountain Hardrock Mineral Prospecting Permit Applications.

The decision to consent to issuance of the two prospecting permits as described in Alternative 3, along with identification of appropriate conditions for use and protection of NFS lands will:

1. Not result in significant beneficial or adverse effects.

Issuance of prospecting permits that would facilitate mineral exploration would provide additional information regarding the existence, grade and extent of federally-managed sub-surface hardrock minerals within the permit areas (EA, Section 1.8 & 3.2). The environmental effects of the projected disturbance on soils, hydrology, vegetation, species and species habitats are anticipated to be minimal or undetectable (EA, Section 3.3, 3.3.2.2 and others) and would be mitigated by conditions included in the prospecting permits. Effects of projected surface use would be temporary and all areas of surface disturbance would be reclaimed in accordance with permit terms and regulatory requirements (EA, Section 2.1.3.3, 2.1.4 and others). Timing

limitations will avoid impacts to northern spotted owl habitat and recreational uses of the Green River Horse Camp during the period of peak use (EA, Section 3.5.3, 3.5.2.3).

2. Not result in significant impacts on public health or safety.

Permit conditions and BLM's regulatory requirements would reduce risk to public health and safety by temporarily limiting public access to drill sites; housing drilling equipment; placing signage to control access and facilitate public safety. These provide reasonable protection of public health and safety while maintaining existing access to public lands (EA, Section 2.1.2.1).

3. Have no significant, adverse effects on unique characteristics of the geographic area.

The EA identified unique resources in proximity to the prospecting permit areas. These include the Mount St. Helens National Volcanic Monument, a segment of the Green River determined to be eligible for consideration under the Wild and Scenic Rivers Act, and the Tumwater Inventoried Roadless Area. The prospecting permits do not include lands within the Monument, nor are projected activities anticipated to be seen from within the Monument. Conditions included as part of the Forest Service consent provide protections for the Green River therefore no adverse effects are anticipated. The Forest Service Standard Stipulation (DN, Attachment 1) along with BLM standard permit terms ensure that regulations regarding management of inventoried roadless areas are met, therefore no adverse effects are anticipated (EA, Sections 1.4, 1.6).

4. Not have highly controversial environmental effects.

"Highly controversial" in the context of 40 CFR 1508.27(b) (4) refers to substantial disagreement within the scientific community about the environmental effects of the proposed action. It does not refer to expressions of opposition or support, or to differences of opinion concerning how public lands should be managed. Public scoping identified either a pro or against opinion toward the project as well as substantial public interest in the project. However, it did not identify substantial disagreement about the nature and extent of potential impacts in the context of actual effects that would result from issuing the prospecting permits (EA, Appendix C).

5. Not have highly uncertain and potentially significant environmental effects or unique or unknown environmental risks.

The survey and analytical methodologies utilized by the agencies to describe the affected environment and environmental effects follow established practices. The EA did not identify any environmental effects or environmental risks that could not be described using available tools and methodologies. Consenting to BLM issuing prospecting permits that may result in on-the-ground exploration activity considers the resources on the ground, and potential effects to them from common methods used to determine subsurface geologic conditions; none of the projected methods are new or experimental. The Forest Service has experience managing similar processes and activities on other Forests across the country.

6. Not establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.

Processing these hardrock mineral prospecting permits has followed established procedures and agency roles and responsibilities defined in the applicable legal and regulatory framework (EA, Chapter 1). Mineral exploration has occurred in the area in previous years, and land management planning documents and information specific to the acquired lands have acknowledged the potential for minerals to occur in the area. This decision does not set a precedent for mineral exploration. With respect to future actions, the applicable regulatory process requires first demonstration of valuable mineral occurrence, application for leasing, and then consideration of specific development. Based on legal and regulatory authority, the Forest Service has consent authority to leasing hardrock minerals on acquired lands. Any future leasing proposal would be evaluated on its own merits should one ever be received, and would be subject to separate and specific environmental analysis and public comment under the National Environmental Policy Act (NEPA). No leasing applications are pending within the project area at this time (EA, section 1.2).

7. Not result in significant cumulative environmental effects.

No other applications for new resource use proposals or authorizations are pending within the geographic area of the proposed permit or any other activities with similar or overlapping effects in space and time. A cumulative effects analysis evaluating overlapping effects from this project as well as projects with similar effects was included in the EA (EA, Section 3.2.2.3.3, 3.3.2.3.3, 3.4.2.2.3, 3.4.2.3.3, 3.5.2.3.3, 3.6.2.3.3).

8. Have no significant effects on scientific, cultural, or historical resources, including those listed in or eligible for listing in the National Register of Historic Places.

Standard terms on BLM's prospecting permit form require protection of items of antiquity within the permit area. Conditions to be added to the permit include requirements for a discovery plan. Cultural resource surveys have not identified any cultural or historic resources in the areas where activity is currently projected (EA, Section 3.8). This decision is not expected to have significant effects on the resources in this item.

9. Have no significant adverse effects on species listed or proposed to be listed as Federally Endangered or Threatened Species, or their designated critical habitat.

The northern spotted owl was the only Federally Endangered or Threatened Species suspected to be present in the vicinity of the action. This consent decision identifies a condition that would restrict operations within the prospecting permit areas where spotted owl habitat may exist. Impacts to northern spotted owls are addressed in the project-specific Biological Assessment (URS 2012, EA Appendix E) and summarized here. There is potentially suitable habitat in the mature timber stands as shown on Figure 5 (EA, Figure 5). Activities are currently projected to occur at the edge of suitable habitat. No trees greater than a 12-inch diameter at breast height would be removed; therefore, the suitability of the habitat would be unchanged. Projected equipment noise, lights, and activity may affect, but are not likely to adversely affect northern spotted owls. Young second-growth habitat at lower elevations in the prospecting permit areas is not suitable habitat for

northern spotted owls. To avoid potential noise-related disturbance to northern spotted owls, which may utilize the mature forest in the northern portion of the prospecting permit areas, no operations are to be conducted between March 1 and June 30 (EA, Section 3.5.1.3; 3.5.3). This would prevent loud noise producing activities such as road reactivation or drilling activities from occurring in or adjacent to the late successional forest stands in the northern upper elevations of the prospecting permit areas during this time period. No designated Critical Habitat was identified within the prospecting permit areas. Informal consultation with Fish and Wildlife Service (FWS) was initiated on July 26, 2012 and they gave concurrence on August 21, 2012. No significant adverse effects to threatened and endangered species or critical habitat are anticipated as a result of this decision.

10. Not Violate a Federal, State, Local, or Tribal law, regulation or policy imposed for the protection of the environment.

The action is in conformance with multiple management objectives and decisions of the Gifford Pinchot National Forest Plan. Specific decisions include those from:

- *Gifford Pinchot National Forest Land and Resource Management Plan, 1990.* Management Area categories in the larger permitted area include: unroaded recreation; visual emphasis (Visual Quality Objectives); and (nominated) Wild and Scenic Rivers (Green River).
- *The 1994 Northwest Forest Plan.* In 1994 the Gifford Pinchot Forest Plan was amended by the NWFP with the completion of a comprehensive and long-term policy for the management of USFS and BLM lands within the range of the northern spotted owl.
- *The 1994 Northwest Forest Plan and Aquatic Conservation Strategy (ACS) Objectives,* requires that proposed projects on Federal lands must be consistent with ACS Objectives. Conditions have been included consistent with these objectives.
- *The 1994 Northwest Forest Plan Standards and Guidelines for riparian reserves.* The decision includes conditions consistent with riparian reserves.
- *Gifford Pinchot National Forest Land and Resource Management Plan Management Indicator Species List.*
- *Gifford Pinchot National Forest Survey and Manage Species List.* See EA Section 3.5.1.3.
- *USFS Sensitive Species (2011).* USFS *Special Status Plant Species* data in the project area. USFS Region 6 *Regional Forester Special Status Species List* (2011). Includes Region 6 *Regional Forester Sensitive Species List*. Also, Magnuson-Stevens Act Provision: *Essential Fish Habitat (EFH): Final Rule* (50 CFR Part 600; 67 FR 2376).

Summary

I have determined that consenting to the BLM issuing the Goat Mountain Hardrock Mineral Prospecting Permits does not constitute a major Federal action having a significant effect on the human environment, and that an environmental impact statement is not necessary and will not be

prepared. This conclusion is based on my consideration of the Council on Environmental Quality's criteria for significance (40 CFR § 1508.27(b)), with regard to impacts described in the EA, my understanding of the project, review of project analysis, and review of public comments. The analysis of effects documented in the EA has been completed within the context of multiple spatial and temporal scales and within the context of the Forest Plan and the specific plans and program guidance listed above.

FINDINGS REQUIRED BY OTHER LAWS AND REGULATIONS

National Forest Management Act

The National Forest Management Act (1976) requires each National Forest to develop and implement a Forest Plan which prescribes management activities for the lands within that National Forest. In 1990, the Gifford Pinchot National Forest published its first Land and Resource Management Plan (Forest Plan). The Forest Plan has been amended several times since 1990 and pertinent amendments are discussed below.

This decision is tiered to the *Final Environmental Impact Statement for the Gifford Pinchot National Forest Land and Resource Management Plan* (1990) and is consistent with the Forest Plan, as amended. The project was designed in conformance with the Forest Plan management area categories goals and standards and guidelines (EA, Section 1.4 and 1.5).

There will be no adverse impacts to Forest Service Region 6 **sensitive species**. Direct impacts to wildlife resulting from the proposed project action is expected to be minor due to the temporary duration of prospecting permits and potential activity on the lands within them (2 to 6 years) (EA, section 3.5.2) along with the application of conditions to the permit. No sensitive fish species are known to occur in the area (EA, page 68). Direct or indirect effects to special status plant species are not anticipated from the projected activities (EA, Section 3.6.2).

I have considered the effects to **management indicator species** (MIS). MIS on the Gifford Pinchot National Forest include pileated woodpecker and other cavity excavating and late-successional species, bald eagle, pine marten, elk, deer, wolverine, Townsend's Big-Eared bat, three species of salamander, and mountain goat, as well as habitat for cutthroat/steelhead and bull trout. Direct impacts to wildlife resulting from the proposed project action are expected to be minor due to the temporary duration of the proposed action (EA, Section 3.5.2.2) and the implementation of the permit conditions. Projected or future activities within the prospecting permit areas have the possibility of affecting the estimated 2.4 miles of cutthroat and steelhead habitat; however, these effects are expected to be short-term, localized, intermittent, and below background levels at the sub-basin scale. Conditions identified as part of the consent decision reduce some of the potential short-term aquatic impacts (EA, Section 3.6.2.3).

The project is consistent with the **Aquatic Conservation Strategy** (ACS) objectives. A complete ACS evaluation that includes a description of the existing condition, important physical and biological components of the watersheds within the planning area, and how the action maintains the existing condition or moves it within the range of natural variability was included

in the EA (EA, Section 3.3.3). As a result of that analysis I find that the project “meets” or “does not prevent attainment” of the Aquatic Conservation Strategy objectives.

Clean Water Act

I find all applicable state and federal requirements associated with State water quality laws and the Clean Water Act (CWA) will be met through planning, application, monitoring and adjustment of Best Management Practices in conformance with the CWA and Federal guidance and management direction (EA, Section 1.4 and 3.3).

Clean Air Act

An assessment of air quality was included in the EA, and I find that all applicable state and federal requirements associated with the Clean Air Act (CAA) will be met through planning, application, monitoring, and adjustment of minimization measures (EA, Section 3.10).

Mineral Resources on Weeks Act Lands, and the Reorganization Plan No. 3 of 1946

The Mineral Resources on Weeks Act Lands (1917) established that the Secretary of Agriculture could authorize mineral prospecting on lands acquired under the Weeks Act (1911). The functions of the Agriculture Secretary under this Act were transferred to the Secretary of Interior in the Reorganization Plan No. 3 of 1946, which set forth that the Secretary of Interior could only authorize mineral development when advised by the USDA that such activity will not interfere with the primary purposes for which the lands were acquired. National Forest System (NFS) lands are generally available for exploration, unless specifically precluded by an act of Congress or other formal withdrawal.

The lands within the prospecting permit applications were acquired under authority of the Weeks Act of 1911. The conditions described in Attachment 1 were designed for the protection of surface resources and will be required along with existing regulatory requirements and standard permit terms, including reclamation of exploration activities. I find that consenting to issuance of these prospecting permits will not interfere with the primary purposes for which these lands were acquired. This finding is supported by the analysis in EA Chapter 3, which discloses that the impacts from projected short term prospecting activities would be limited through the effective application of conditions (Attachment 1) and the limited overall scope of proposed activities. Lands within the project area are within the blast zone of the 1980 eruption of Mt. St. Helens and under the *matrix* designation in the Northwest Forest Plan. They are available for timber harvesting. Any lands within the prospecting permits that might be disturbed would be returned to a forested condition after reclamation. The EA discloses that the impact on navigable streams and waters would be limited through the mitigation measures to meet Aquatic Conservation Strategy Objectives (Table 3.3.1) and also by limiting withdrawal of surface waters (Section 3.3). Final plugging of all drill holes will prevent intermingling of any groundwater aquifers and prevent inadvertent communication of surface water to groundwater aquifers.

The BLM has responsibility and authority over federally owned minerals on lands acquired under the Weeks Act of 1911 (including those lying under NFS lands) by direction in the President’s Reorganization Plan No. 3 (1946). The 1946 Plan transferred the functions of the Secretary of Agriculture with respect to issuing prospecting permits for hardrock minerals on

acquired Weeks Law lands to the Secretary of Interior. Hardrock minerals include base metals, precious metals, industrial minerals, and precious or semi-precious gemstones. The term "hardrock mineral" includes mineral deposits that are found in sedimentary and other rocks (43 CFR 3501.5, 2003). Prospecting permits allow for the exploration for leasable mineral deposits on BLM administered hardrock minerals. Administrative responsibility for surface resources remains with the Secretary of Agriculture.

Mining and Minerals Policy Act of 1970

This legislation established the federal government's overall policy to foster and encourage private enterprise in the development of economically sound and stable industries. The Act identified the need for the orderly and economic development of domestic resources to help assure satisfaction of industrial, security, and environmental needs. As discussed under Decision Rationale, my decision is consistent with this Act.

ADMINISTRATIVE REVIEW (APPEAL) OPPORTUNITIES

This decision is subject to administrative review (appeal) pursuant to 36 CFR Part 215. The written appeal must be filed (regular mail, fax, email, hand-delivery, or express delivery) with the Appeal Deciding Officer at:

Attn: Appeals
Forest Supervisor, c/o Brittany Zapata
Gifford Pinchot National Forest
10600 NE 51st Circle
Vancouver, WA 98682-5419
Fax (360)891-5045, email appeal-northwest-giffordpinchot@fs.fed.us.

The business hours for submitting hand-delivered appeals are: 8:00 AM to 4:30 PM; Monday through Friday, excluding federal holidays. Electronic appeals must be submitted in a format such as an email message, plain text (.txt), rich text format (.rtf), Word (.doc), or portable document format (.pdf). In cases where no identifiable name is attached to an electronic message, a verification of identity will be required. A scanned signature is one way to provide verification. E-mails submitted to email addresses other than the one listed above, or in formats other than those listed or containing viruses, will be rejected. It is the responsibility of the appellant to confirm receipt of appeals submitted by electronic mail.

Appeals, including attachments, must be filed within 45 days from the publication date of the legal notice of this decision in the *Centralia Chronicle*, the newspaper of record. Attachments received after the 45 day appeal period will not be considered. The publication date in the *Centralia Chronicle* is the exclusive means for calculating the time to file an appeal. Those wishing to appeal this decision should not rely upon dates or timeframe information provided by any other source.



IMPLEMENTATION DATE

If no appeals are filed within the 45-day time period, implementation of the decision may occur on, but not before, 5 business days from the close of the appeal filing period. When appeals are filed, implementation may occur on, but not before, the 15th business day following the date of the last appeal disposition.

CONTACT

For additional information concerning this decision, contact: Erica Taecker, North Zone Planning Team Leader, during business hours (weekdays, 8:00 a.m. to 4:30 p.m.) at the Cowlitz Valley Ranger District; 10024 U.S. Highway 12; P.O. Box 670, Randle, WA 98377; Phone: (360) 497-1136; Fax: (360) 497-1102; e-mail: etaecker@fs.fed.us

12/3/2012

GAR ABBAS

Date

Cowlitz Valley District Ranger

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer.



Attachment 1: Specified Conditions

Federal Hardrock Minerals Prospecting Permits

Forest Service Decision Notice

Forest Service Specified Conditions

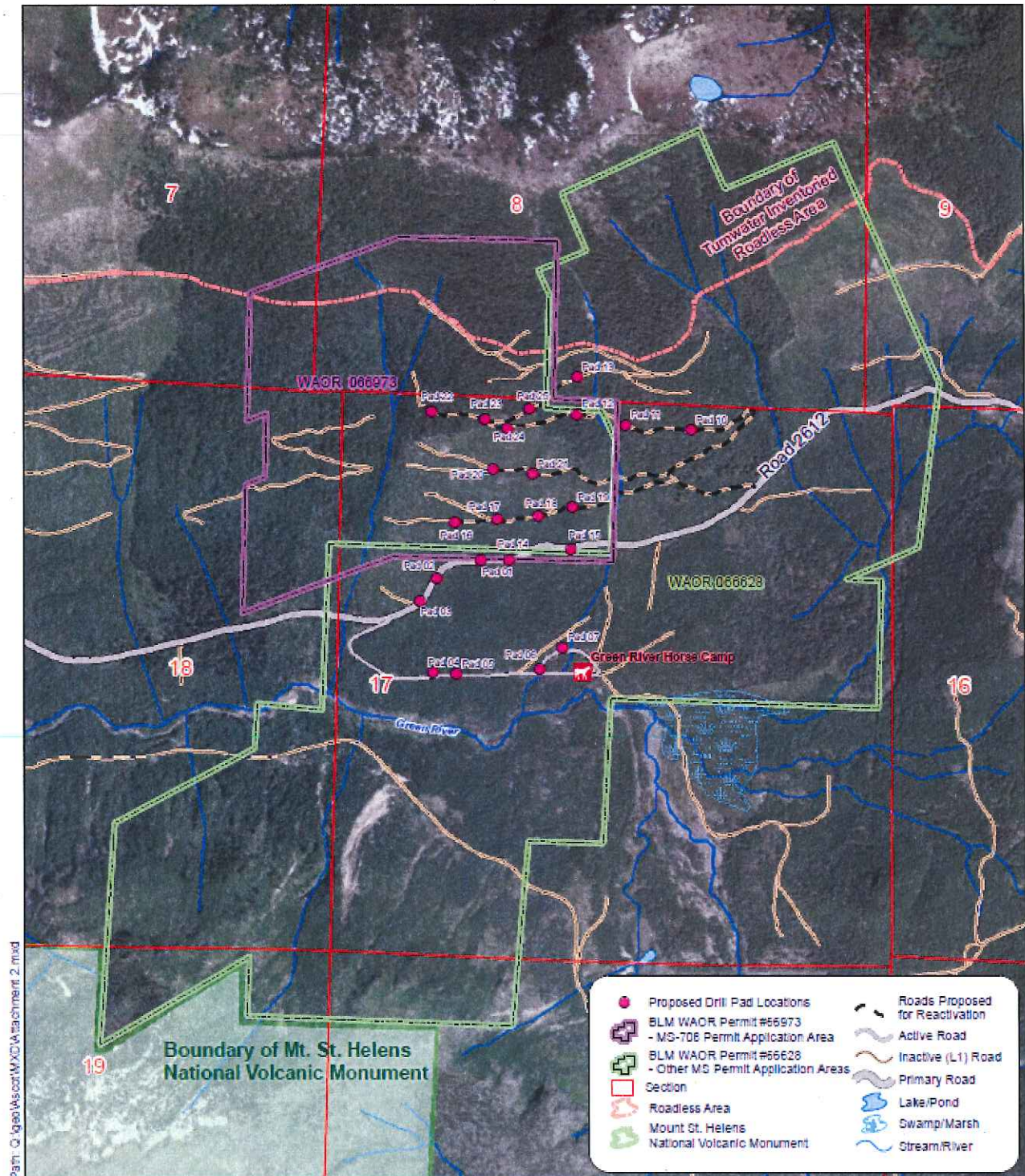
The following are conditions of Forest Service consent to BLM issuing prospecting permits described in Applications # WAOR-066628 and #WAOR-066973.

1. The Forest Service shall be given reasonable advance notice of on the ground activities and/or operations, including pre-construction field visits, as appropriate. The purpose of advance notice is to work jointly with BLM and/or the permittee to minimize environmental impacts and provide for public safety during surface disturbing activities authorized and conducted under the prospecting permits.
2. Pursuant to the provisions of the act of March 4, 1917 (16 USC 520), Section 402 of the Re-organization Plan No. 3 of July 16, 1946 (60 Stat. 1097, 1099), the Act of August 7, 1947 (30 USC 352), and the National Environmental Policy Act of 1969 (42 USC 4321 et seq.) as said authorities have been or may hereafter be amended, no mineral development of any type is authorized hereby, and consent to the issuance of this prospecting permit as required by law and regulation (43 CFR 3507.11 (d)) and 43 CFR 3507.19(c)) is given subject to the express stipulation that no mineral lease may be issued for the land under permit without the prior consent of the USDA Forest Service and the proper rendition of an environmental analysis in accordance with the National Environmental Policy Act of 1969, the findings of which shall determine whether and under what terms and conditions for the protection of the land involved the lease may be issued.
3. *Standard Stipulation for Lands of the NFS Under the Jurisdiction of the Department of Agriculture (FSM 2822.42).* : The permittee must comply with all the rules and regulations of the Secretary of Agriculture set forth at Title 36, Chapter II of the Code of Federal Regulations governing the use and management of the National Forest System (NFS) when not inconsistent with the rights granted by the Secretary of the Interior in the prospecting permit. The Secretary of Agriculture's rules and regulations must be complied with for: (1) all use and occupancy of the NFS prior to approval of a permit/operation plan by the Secretary of the Interior; (2) uses of all existing improvements, such as forest development roads, within and outside the area permitted by the Secretary of the Interior; and (3) use and occupancy of the NFS not authorized by a permit/operating plan approved by the Secretary of the Interior. All matters related to this stipulation are to be addressed to Cowlitz Ranger District at: 10024 US Highway 12, P.O. Box 670. Randle, WA 98377-9105, telephone number (360) 497-1100.

4. The permittee must comply with standards and guidelines in the *Gifford Pinchot Land and Resource Management Plan* (1990), as amended by the "Northwest Forest Plan" (1994).
5. Certain lands within the permit areas are also within the Tumwater Inventoried Roadless Area (IRA), including portions of Mineral Surveys 708, 774 and 1330 shown on the enclosed map (DN, Attachment 2). Activities within the IRA are subject to the rules and regulations of the Secretary of Agriculture pertaining to road construction, reconstruction and timber harvest consistent with the 2001 Forest Service Roadless Rule at 36 CFR 294 and the Forest Plan Standards and Guidelines for Minerals and Geology (Forest Plan, p. IV-93, 1990).
6. Certain lands within the permit areas (Application WAOR-066628), are within ¼ mile of the Green River and activities must comply with applicable Forest Plan Standards and Guidelines (Forest Plan, IV-111). Reasonable mitigation and reclamation measures are required to minimize surface disturbance, sedimentation and visual impairment to protect the outstanding values of wild and scenic rivers and rivers suitable and eligible for inclusion in the National Wild and Scenic Rivers System (DN, Attachment 2).
7. To avoid potential noise-related disturbance, no operations within the known range of the northern spotted owl are to be conducted between March 1 and June 30.

Resource Use and Protection Conditions the FS Recommends to BLM

I am consenting to BLM issuing the prospecting permits described above, subject to the specified Forest Service conditions. Alternative 3 in the EA also brings forward other mitigation measures that the BLM and FS identified for the specific exploration plan that BLM must decide on. These measures that the Forest Service recommends are incorporated into the EA with Alternative 3, are completely at the discretion of BLM. The Forest Service consent with the conditions specified is limited to the authority the Forest Service has under the regulatory framework. The additional mitigation measures described in Alternative 3 are not part of the Forest Service decision, but are discussed here to aid the public in understanding the roles of the two agencies.



Attachment 2

Goat Mountain Prospecting Permit Application
Gifford Pinchot National Forest, Washington



